IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 13617 of 2006

DATED: 25-7-2006

Between:

K.V.Chary petitioner

And

APSRTC, Musheerabad, Hyderabad
Rep byits Managing Director and another
Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 13617 of 2006

ORAL ORDER:

The present writ petition is filed questioning the action of the respondents in not paying the gratuity for the out of service period from 24.12.2000 to 09.05.2004.

The petitioner joined the respondent corporation as conductor and promoted as Depot Clerk on 20.02.1999. While so, he was issued with charge sheet dated 5.8.2000 alleging irregularities on duty and after following the due procedure vide proceedings dated 24.12.2000 he was removed from service. Questioning the termination order, petitioner raised a dispute in I.D. No. 73 of 2003 on the file of the Labour Court-III, Hyderabad. The labour Court on consideration of the matter allowed the petition setting aside the removal order dated 24.12.2000 and directing reinstatement of the petitioner into service with continuity of service, with deferment of two (2) annual grade increments with cumulative effect, but not entitled for any back wages and attendant benefits. In terms of the award, the petitioner was reinstated into service on 10.5.2004 and posted to Yadagirigutta depot. On attaining the age of superannuation, the petitioner was retired from service on 30.04.2004. Since 10% of gratutity was withheld and gratuity for the out of service period was not granted, the petitioner issued a legal notice dated 19.6.2006 to release the gratuity amount. It is alleged that no action was taken thereon. Hence, the present writ petition.

Learned counsel for petitioner submitted that the labour Court by its award dated 6.1.2004 set aside the removal order and reinstated the petitioner into service with continuity of service, as such petitioner is entitled to gratuity for the out of service period. It is further stated since the petitioner was reinstated into service in terms of award of the

labour court and retired on attaining the age of superannuation, he is entitled to gratuity for the out of service period also and sought for interference of this Court.

Heard learned counsel for petitioner and learned Standing Counsel for respondent corporation.

The labour Court by award dated 6.1.2004 allowed the petition and directed reinstatement of the petitioner with continuity of service but without backwages and imposed a penalty of deferment of two annual grade increments with cumulative effect. It is not in dispute that pursuant to award dated 6.1.2004, the petitioner was reinstated into service and retired on attaining the age of superannuation. Since the labour Court awarded reinstatement with continuity of service, the petitioner is entitled to gratuity for the out of service period also. The respondents, having complied with the award of the labour Court cannot deny gratuity to the petitioner. More over, it is not the case of the respondents that the award of the labour Court is under challenge.

In the circumstances, the writ petition is disposed of directing the respondents to calculate the gratuity for the out of service i.e., from 24.12.2000 to 9.5.2004 also and take necessary steps to release the same expeditiously, preferably within a period of eight weeks from the date of receipt of copy of this order. No costs.

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N.V.RAMANA,J

DATE:25.7.2006

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THE HON'BLE MR JUSTICE N.V. RAMANA

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